



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable John D. Reed, Commissioner  
Bureau of Labor Statistics  
Austin, Texas

Dear Sir:

Opinion No. 9-6950  
Re: Maximum working hours  
of city policemen.

We quote from your letter:

"Article 5167, RCG, reads as follows:

"In all incorporated cities and towns however incorporated, having a population of fifty thousand inhabitants or more, according to the preceding Federal census, the patrolmen thereof, or those performing duties ordinarily performed by patrolmen, shall be required to serve on actual duty as patrolmen not longer than eight hours in every twenty-four hours of the day; provided that in case of riot or other emergency, such patrolmen shall perform such duty and for such time as the directing authority of the department shall require." (Underlining ours).

"Article 1583, Penal Code, Sections 1 through 5, reads as follows:

"1. No member of any fire department or police department in any city of more than twenty-five thousand (25,000) inhabitants shall be required to be on duty more than six (6) days in any one week.

"2. The preceding subdivision shall not apply to cases of emergency.

"3. Each member of any such departments in any city of more than thirty thousand (30,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay; provided that the

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provision of this Section of this Act shall not be applied to any member of any such department in any city of more than thirty thousand (30,000) inhabitants unless such member shall have been regularly employed in such department or departments for a period of at least one (1) year.

"14. Each preceding Federal census shall determine the population.

"15. The City officials having supervision of the fire department and police department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.' (Underscoring ours)

"As far as I am able to determine, the statutes above quoted are the only laws we have governing the hours of policemen in a city of fifty-eight thousand (58,000) as shown by the last Federal census.

"This Department is in receipt of an inquiry from a city of the above size concerning whether or not it would be within the law in instituting a proposed plan of work and salaries for its police officers for the duration of the war emergency. At the present time the police officers are working eight (8) hours per day, six (6) days per week, and are receiving a salary of One Hundred and Sixty-Five Dollars (\$165.00) per month.

"Because the City is unable to replace its personnel who have entered the armed services, both the remaining officers and the city officials have tentatively agreed to a twelve-hour day during the emergency period and for this they are to receive compensation for the extra four (4) hours at the same rate of pay as regularly received.

"Police departments, like many industries, are faced with a problem of finding qualified workers, and this plan is to only be used during the war emergency for the proper protection of life and property.

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"Will you please consider the above proposed plan and advise me whether or not it can be put into effect without violating our statutes?"

The civil and penal statutes you have quoted are the only applicable ones to policemen's hours of labor in a city of 58,000 population. In both codes the law may not be relaxed except in an emergency insofar as it limits hours of work. What constitutes an emergency is a question of fact in the case of each city of the class. We think the city officials are competent to determine whether an emergency in fact exists. It is a matter of universal knowledge that the demands of war upon our manpower has created emergencies in all walks of life and it does not seem reasonable to suppose that the cities of the State are any exception to the rule. If the city authorities so determine, it is our opinion that an arrangement for six twelve-hour days per week would not violate the statutes referred to. We further point out that there is nothing in the statutes to prohibit a voluntary arrangement such as you have outlined even in the absence of an emergency.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Elbert Hooper*  
Elbert Hooper  
Assistant

KH:db

APPROVED JUL 10, 1944

*E. J. Blackburn*  
ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION  
COMMITTEE

BY *BWB*  
CHAIRMAN